

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

Case No.

21 CV 2360
(to be filled in by the Clerk's Office)

August B. Kreis IV

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See attached

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

James C. Kostura

John Kleinman

Mark T. Bartholomew

John Harmon

Charles Horvath

Jeremy Acherman

Michael Gazzano

J. Santiago

Arias

Andrew Kuczma

Walker

Douglas

Primecare Medical Inc.

Jenn Keller

Polina

Shane P. Caffery

Nicki

Kerstyn

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

August B. Kreis IV

All other names by which
you have been known:

August B. Kreis, Byron

ID Number

5264

Current Institution

Northampton County Prison

Address

666 Walnut StreetEaston

City

PA

State

18042

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

James C. KosturaJob or Title (*if known*)Department of Corrections Administrator

Shield Number

Employer

Northampton County Department of Corrections

Address

666 Walnut StreetEaston

City

PA

State

18042

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

John KleinmanJob or Title (*if known*)Deputy Warden

Shield Number

Employer

Northampton County Department of Corrections

Address

666 Walnut StreetEaston

City

PA

State

18042

Zip Code



Individual capacity



Official capacity

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

Mark T. Bartholomew

Job or Title (if known)

Deputy Warden

Shield Number

Employer

Northampton County Department of Corrections

Address

666 Walnut StreetEaston

City

PA

State

18042

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

John Harmon

Job or Title (if known)

Administration/Classification/Behavioral Board

Shield Number

Employer

Northampton County Department of Corrections

Address

666 Walnut StreetEaston

City

PA

State

18042

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

1st, 5th, 8th, 14th Amendments

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

I.

B.

The Defendant(s)

Defendant No. 5

Name
Job or Title
Shield Number
Employer
Address

Charels Horvath
Northampton County DOC Professional Responsibility Investigator
25417
Northampton County Department of Corrections
666 Walnut Street
Easton PA 18042
City State Zip Code

☒ Individual Capacity ☐ Official Capacity

Defendant No. 6

Name
Job or Title
Shield Number
Employer
Address

Jeremy Ackerman
Lieutenant
Northampton County Department of Corrections
666 Walnut Street
Easton PA 18042
City State Zip Code

☒ Individual Capacity ☐ Official Capacity

Defendant No. 7

Name
Job or Title
Shield Number
Employer
Address

Michael Gazzano
Lieutenant
Northampton County Department of Corrections
666 Walnut Street
Easton PA 18042
City State Zip Code

☒ Individual Capacity ☐ Official Capacity

Defendant No. 8

Name
Job or Title
Shield Number
Employer
Address

J. Santiago
Corrections Officer
261
Northampton County Department of Corrections
666 Walnut Street
Easton PA 18042
City State Zip Code

☒ Individual Capacity ☐ Official Capacity

I.

B.

The Defendant(s)

Defendant No. 9

Name	Arias		
Job or Title	CERT Corrections Officer		
Shield Number			
Employer	Northampton County Department of Corrections		
Address	666 Walnut Street		
	Easton City	PA State	18042 Zip Code
	<input checked="" type="checkbox"/> Individual Capacity <input type="checkbox"/> Official Capacity		

Defendant No. 10

Name	Andrew Kuczma		
Job or Title	CERT Corrections Officer		
Shield Number	403		
Employer	Northampton County Department of Corrections		
Address	666 Walnut Street		
	Easton City	PA State	18042 Zip Code
	<input checked="" type="checkbox"/> Individual Capacity <input type="checkbox"/> Official Capacity		

Defendant No. 11

Name	Walker		
Job or Title	Corrections Officer		
Shield Number	273		
Employer	Northampton County Department of Corrections		
Address	666 Walnut Street		
	Easton City	PA State	18042 Zip Code
	<input checked="" type="checkbox"/> Individual Capacity <input type="checkbox"/> Official Capacity		

Defendant No. 12

Name	Douglas		
Job or Title	Corrections Officer		
Shield Number	476		
Employer	Northampton County Department of Corrections		
Address	666 Walnut Street		
	Easton City	PA State	18042 Zip Code
	<input checked="" type="checkbox"/> Individual Capacity <input type="checkbox"/> Official Capacity		

I.B.The Defendant(s)Defendant No. 13NamePrimecare Medical Inc.Job or TitleContracted prisoner medical careShield NumberEmployerAddress3940 Locust LaneHarrisburgPA17109CityStateZip Code☐ Individual Capacity ☒ Official CapacityDefendant No. 14NameJenn HellerJob or TitleMedical AdministratorShield NumberEmployerPrimecare Medical IncAddress666 Walnut StreetEastonPA18042CityStateZip Code☒ Individual Capacity ☒ Official CapacityDefendant No. 15NamePolinaJob or TitlePhysicians AssistantShield NumberEmployerPrimecare Medical Inc.Address666 Walnut StreetEastonPA18042CityStateZip Code☒ Individual Capacity ☒ Official CapacityDefendant No. 16NameShane P. CafferyJob or TitleDirector of NursingShield NumberEmployerPrimecare Medical Inc.Address666 Walnut StreetEastonPA18042CityStateZip Code☒ Individual Capacity ☒ Official Capacity

I.

B.

The Defendants

Defendant No. 17

Name

Nicki

Job or Title

LPN

Shield Number

Employer

Primecare Medical Inc.

Address

666 Walnut Street

Easton

PA

18042

City

state

zip code

☒ Individual Capacity ☒ Official Capacity

Defendant No. 18

Name

Kerstyn

Job or Title

LPN

Shield Number

Employer

Primecare Medical Inc.

Address

666 Walnut Street

Easton

PA

18042

City

state

zip code

☒ Individual Capacity ☒ Official Capacity

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See attached

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See attached

II. Basis for Selection

D.

- 1) Department of Corrections Administrator James C. Kostura acted under Pennsylvania State Legislature/Law.
- 2) Northampton County Prison Deputy Warden John Kleinman acted under Pennsylvania State Legislature/Law.
- 3) Northampton County Prison Deputy Warden Mark T. Bartholomew acted under Pennsylvania State Legislature/Law.
- 4) Northampton County Prison Administration/Classification/Behavioral Board Examiner John Harman acted under Pennsylvania State Legislature/Law.
- 5) Northampton County Department of Corrections Professional Responsibility Investigator Charels Horvath acted under Pennsylvania State Legislature/Law.
- 6) Northampton County Prison Lieutenant Jermy Ackerman acted under Pennsylvania State Legislature/Law.
- 7) Northampton County Prison Lieutenant Michael Gazzano acted under Pennsylvania State Legislature/Law.
- 8) J. Santiago Northampton County Prison Corrections Officer acted under color of Pennsylvania State Legislature/Law.
- 9) Northampton County Department of Corrections Corrections Officer Arias acted under Pennsylvania State Legislature/Law.

II. Basis for Jurisdiction

D.

- 10) Northampton County Department of Corrections Corrections Officer Andrew Kuczma acted under Pennsylvania State Legislature/Law.
- 11) Northampton County Department of Corrections Corrections Officer Walker acted under Pennsylvania State Legislature/Law.
- 12) Northampton County Department of Corrections Corrections Officer Douglas acted under Pennsylvania State Legislature/Law.
- 13) Primecare Medical Inc. acted under Pennsylvania State Legislature/Law as a contracted medical provider acting in the States stead.
- 14) Primecare Medical Inc. medical Administrator Jenn Heller acted under Pennsylvania State Legislature/Law as an employee of a contracted medical provider acting in the States Stead.
- 15) Primecare Medical Inc. Physicians Assistant Polina acted under Pennsylvania State Legislature/Law as an employee of a contracted medical provider acting in the States Stead.
- 16) Primecare Medical Inc. Director of Nursing Shane P. Coffery acted under Pennsylvania State Legislature/Law as an employee of a contracted medical provider acting in the States Stead.

II. Basis for Jurisdiction

D.

17) Primecare Medical Inc. LPN Nicki acted under Pennsylvania State Legislature/state law as an employee of a contracted medical provider acting in the States stead.

18) Primecare Medical Inc LPN Kerstyn acted under Pennsylvania State Legislature/Law as an employee of a contracted medical provider acting in the States stead.

B. 1) In the Medical Unit upon the calling of a "Code Blue" medical emergency. On 12/8/2020 at approximately 9:00 am Lieutenant Jeremy Ackerman "Drive Tased" me in a seizure multiple times in my chest over my VNS implant. The CERT Corrections Officer Andrew Kuczma who called the "Code Blue" medical emergency was directly involved because, while in a seizure I put my right hand on Officer Andrew Kuczma and Lieutenant Jeremy Ackerman with my left hand locked in a cuff belted to my body sitting in a chair. I appealed the misconduct issued by Lieutenant Jeremy Ackerman and John Klienman told me I was in control of myself and I did it on purpose.

B. 2) On H-Tier in housing H-06 when trying to get medical attention. In the end of February 2021 at approximately 4:00 pm I tried to get medical attention by asking the tier Corrections Officers attention and Officers J. Santiago and Arias if they could please contact medical. I told them that something didn't feel right and that I was going to have a seizure, that I was having an aura to a seizure. Both officers stated "I was talking to them and I was fine, there was no need for medical to come." Five minutes after both officers walked away I had a seizure and a "Code Blue" medical emergency was called. Northampton County Prison CERT responded and took me to the medical unit via the "Striker Chair". Primecare Medical Inc. LPN Joni was the responding medical provider in the Medical Unit.

IV. Statement of Claim

B.3) H-Tier in H14 housing on 3/8/2021 at approximately 10:00 am.

I was sent on a medical run to St. Lukes Anderson Campus prior to my surgery and right before I left for the medical run CERT Corrections Officer Andrew Kuczman came to my housing cell and told me and my cellmate to pack up and that we are getting moved into the cell next door H15. I told Officer Andrew Kuczman not to do that and it will result in a physical altercation because, I had heard the inmate in H15 talking on the ^{radio} about assaulting me. Despite my giving notice of physical altercation in advance when I came back from the medical run my belongings were in H15 and I was placed in the cell. Which resulted in a fight and me getting punched and kicked within 15 minutes. I yelled for help and CERT responded to a "Code Red"

B.4) H-Tier in H-05 housing on 3/10/2021 at approximately 3:00pm

upon returning from surgery on my VNS implant for severe epilepsy control. Medical had me placed back into a dirty 150 year old housing cell, infested with roaches and me having open neuro surgery wounds. I was told by one of the Primecare CPNs that medical segregations 5 cells were full.

B.5) H-Tier in H-05 housing on the third week of March at approximately 12:00pm I was called down to medical and was escorted by Corrections Officer Lombardo badge #330 to Medical Administrator Jenn Heller's Office. After being told by MDs multiple times they finally fixed my CPAP machine after another inmate broke it. I did not have it for use for ~~About~~ two and a half months. Jenn Heller stated that "she took it to Youngs Medical Supply and they just had to replace the hose connection and the hose. They told me the LCD screen did not need to be fixed and that all of the settings are in it. You can fix the screen when you get out. Corporate wouldn't approve it so it came out of our pocket take care of it." Corrections Officer Lombardo witness the entire incident.

IV. Statement of Claim

B. 6) H-Tier in H-05 housing during a cell search 4/12/2021 by CERT Corrections Officer Michael Gazzano at 7:10am he assaulted me. Michael Gazzano stood, slammed me backwards in the chest stating "Mother Fucker" slamming my head off of the bunk then he immediately arm barred me 90° to my left bringing me to the floor and slamming my head into the desk. Once I was on the floor officer Michael Gazzano knelt on my tail bone causing severe pain from a prior injury. Shadowing Officer Bochini was in the cell the entire time and can witness the actions of Michael Gazzano. Once Michael Gazzano called a "Code Red" and the CERT responded and Lt. Chad Rinker badge # 36 was the responding Lieutenant and everything from then forward is recorded on Lieutenants bodycam I was already on the floor and nothing Michael Gazzano did is recorded on bodycam. Michael Gazzano and Bochini entered the cell off of video recording. CERT Corrections Officer Michael Gazzano was a commanding officer on H-Tier "Special Needs" and being a CERT member as well he needs to be aware of all medically cleared security risks so they are not just contraband. He knows of my CPAP being medically cleared and the magnet bracelet for VNS implant being cleared for my severe epilepsy control. Michael Gazzano got promoted to Lt. shortly after.

IV. Statement of Claim

B.7) After the incident on 4/12/2021 at 7:10 am in cell H-05 Michael Gazzano wrote a False Formal Misconduct that directly ^{caused} ~~to be~~ ^{me} ~~to be~~ placed on "High Risk" from the date 4/12/2021 to 5/12/2021, in which I only received 3 showers on the dates of 4/28/2021, 5/5/2021 and 5/8/2021. Corrections Officer Quinones badge 482 is witness to this and he is the officer that give me the first shower as well because, he went and "checked the log" came back to M-2 and said "you aren't even in it" I had been moved to M-2 on 4/22/2021.

B.8) After filing two administrative grievances while in H-05 on H-Tier "Special Needs" after the incident with Michael Gazzano grievance numbers 23-2021 and 24-2021 in the 3rd week of April 2021 both of which were denied as ungrievable by Mark T. Bartholomew. The grievance for the actions of Michael Gazzano on 4/12/2021 was used by DOC Investigator Charles Horvath to ultimately charge me with 4 criminal charges after Horvath went to DOC Administrator James C. Kostura and used the letter of grievance to the situation on 4/12/2021 with Michael Gazzano as evidence to charge me on 4/22/2021 the day I was ^{moved} ~~sent~~ to Medical Segregation. After being given the order to criminally charge me by Administration the charges were originally filled on 4/20/2021 and when I was taken to Northampton County Central Booking and had a preliminary arraignment Charles Horvath had my grievance in his hand and stated "you are being charged with 4 criminal charges and your grievance will go no further with me."

I V. Statement of Claim

- B.9) Medical Hallway when being escorted back to my cell M-2 in Medical Segregation on 5/17/2021 at 9:00am the Medical Administrator Jenn Keller threw the grievance I had just previously given her at me stating "I am not dealing with HIPPA, we wasted enough time on you." Both escorting Officers Lumbardo badge # 330 and CERT Arias fully witnessed.
- B.10) Being brought through intake into Northampton County Prison by Corrections Officer J. Wagner, Primecare Medical Inc. RN CATHRINE was the medical provider for my intake and my questioning. I was asked about any health conditions and what the magnet bracelet was for that was in my possession and the statement was made by RN Cathrine at intake on 11/9/2020 6:00 am "With his epilepsy and that bracelet for his implant he needs to stay on "Medical Observation" on the "Flats" H-Tier "Special Needs"
- B.11) In medical M-2 Medical Segregation after returning from the formal arraignment for the charges by the Palmer Township Police on 6/24/2021 at 9:00 am I was told to pack my stuff and that I was moving. I was moved to E-Tier "The hole" after Primecare Medical Inc defendants Polina and Jenn Keller removed me from "medical observation", "Clearing me" to be placed unmonitored in the hole. Despite knowing the severity of my medical conditions because of all the seizures I already had plus the surgery I already went through. I was told by Jenn Keller that everything gets documented and entered through the computer to Corporate, so the MD's prescribed orders of treatment should be documented as to be monitored. Two days prior after I had filed several more grievances while in Med. Seg, Polina had looked at me while on the Tier/Unit and told me to "Mind your lane Kreis". The final grievance I wrote medical on Med. Seg, was on 6/10/2021 about the proper times of administering the medication for continued treatment. 12 hour increments.

- B.12) In Medical Segregation on 6/24/2021 at 9:00 am upon Polina and Jenn Keller "clearing me" off of "Medical Observation" John Harmon knowing the severity of my medical conditions because, of all of the "Code Blue" medical emergency incidents CERT corrections officers have responded to, me going in and out of the facility on "medical runs", and me using a medical machine, John Harmon chose to house me completely unmonitored and unable to get adequate medical care for the amount of medical care I need.
- B.13) In E-Tier Cell 13 ever since being moved up here after being taken off of "Medical Observation" I have not had access to more consistent medical provisions since 6/24/2021 9:00am. The Primecare Medical Entity in this jail refuses to bring me provisions like distilled water for my CPAP which leaves me no choice to either run dirty tap water through it and destroy the humidifier and increase the risk of lung infection or not to use the humidifier at all and my throat burn. I ~~was~~ ^{and} told ~~to~~ Primecare medical in Northampton County Prison multiple times by MD that "I MUST WEAR CPAP" which is why eventually it was fixed But Corporate wouldn't even approve.
- B.14) On 9/21/21 at approximately 11:00am I spoke with John Klienman on E-Tier about the lack of medical care I am receiving and about a Fake Formal misconduct that a Corrections Officer just wrote on me which was keeping me in solitary confinement and interfering with my access to medical care. I put in the appeal because, he said he will look into it and take me out of solitary. I put it in and it was denied.

7/24/2021

B.15) On E-Tier in Cell E-13 at 10:00am upon morning med. pass LPN Barbara informed me that DON Shane never reordered my "Vimpat" Life sustaining medication so she didn't have it for me. This was witnessed by Corrections Officer Byrd badge #414. This resulted in me missing 7 doses and me having two seizures on the weekend of 7/24/2021 and 7/25/2021. Neither one even noticed by the Corrections Officers. I woke up with bruises, lacerations and severe headache.

B.16) The entire time being in Northampton County Prison Primecare Medical Inc. employees have given me generic "Trileptal" which in my MD proscribed "Life sustaining medication" anti-convulsants it clearly states it is BRAND NAME ONLY in my medical records. The mixture of medications I am being given cause headaches, dizziness and light headedness. I have alerted medical staff to this many times. The side affect ~~feeling~~ making me feel as though I am going to go into a seizure.

B.17) ON E-Tier while in Cell E-13 first week of August I put in a Primecare grievance because, on multiple times on med. pass I did not receive my "Life Sustaining medication". Telling them I can't hear over my CPAP, and I wasn't awake

B.18) ON E-Tier while in Cell E-13 once I got my hands on a grievance for administration from Lt. Williams First week of September I put it in on Corrections Officer Walker because he was the Officer escorting the medical staff all times I missed my "Life sustaining medication" and I explained in the grievance that the officer was only tipping the wicket, whispering or stating the question "Do you want your meds?" then after 30 seconds if I didn't answer just slamming the wicket closed and writing that I denied. John Harmon takes care of the grievances on E-Tier and he denied grievance stating "it is my responsibility to be up for the meds" Even after explaining with my CPAP running and in REM sleep I don't hear.

B.19) On 6/8/2021 When I was in Med. Seg. cell M2 Primecare Dr. and RN Cathrine came and asked me when I started using my CPAP breathing assisting medical machine. When all that information is in my medical records that I signed off for HIPPA Law to access.

B.20) On E-Tier in cell 13 officer Hampton escorted me to the medical Unit and I was to speak to PA Polina and she stated "All of your follow up appointments are scheduled and medication is refilled." I also asked to speak to Administrator Jenn Keller and she came in the medical Unit and I asked her "Why am I being housed unmonitored on E-Tier?" Jenn Keller's response was "Because the administration has a job to do to and they are not going to waste a 4 man cell on 1 person." PA Polina and DON Shane Cafferey both told me that "medical has nothing to do with where they chose to house me at". 9/16/2021 11:00am.

B.21) 10/6/2021 E-Tier cell 13 8:00pm. Primecare Medical Inc. has a practice of not approving things as a way to save money and pocket money from contract over giving adequate medical care, (see claim 5). Primecare Medical Inc. has a practice of using generic medications to save money over adequate medical care, (see claim 6). Primecare Medical Inc. doesn't uphold to its own policy of looking into your prior medical records as to continue adequate medical care, (see claim 9). Primecare Medical Inc. doesn't monitor their employees in anyway even when being put on notice of their employees actions by a MD or since 6/24/2021 being on E-Tier I have written to their Corporate Office in Harrisburg, PA twice and I wrote multiple more times since 3/1/2021. They don't punish staff for abuse of power.

B.22) E-Tier Cell 13 8/24/2021 Corrections Officer Douglas wrote a Fake misconduct after lying to the 45s office and just had Officer Plum sign it. Which resulted in me getting another 45 days in the hole with little to no medical care and no monitoring of my severe epilepsy because, John Harman gave me 45 days for a tray falling on the floor. Douglas knows of my medical problems and needs, shortly before the writing of that misconduct Douglas was working E-Tier and on med. pass stated "I don't want to hear any shit just take the damn meds."

B.23) On E-Tier in cell E-13 on 9/22/2021 at 9:00 pm I came to awareness on the floor "Conscious Dominion" and I made both Corrections Officers working the tier, Officers Cleffi badge #406 and Brewer badge #494 aware that I just came to on the floor and that I had a severe headache. While at the gate Officer Brewer informed me that I had a "Huge Knot" on my head and I was bleeding from my right hand. Officer Brewer immediately called medical and he was told "We will be right up." Twenty minutes later Officer Cleffi called medical and asked where they were. Medical stated to Officer Cleffi that "They will be up when they are done." Twenty minutes later Officer Brewer called medical again because no one had come. Medical stated to Officer Brewer "We will leave note for the next shift to check" No one ever even came to check my vitals or anything.

B.24) On E-Tier 9/24/2021 at 12:00 pm when Jenn Keller came on the tier I spoke to her about no one ever coming to see me after I had a seizure and about the multiple Primecare medical requests that she said to put in for the documentation of a request for the x ray of my tail bone because, no effective medical care to date. Keller said "I will look into the x ray and I will talk to staff about no one coming to see you". NO Primecare employee in a supervisor position actually supervises their subordinate staff.

B.25) On E-Tier in Cell -13 on 9/27/2021 at 1:40 am I had a conversation on the gate with Corrections Officer Joshua A. Plum badge #274 and Officer Plum stated "I know it was an accident but, CO Douglas told me to do it", "He told me to cover my ass and write you up.", "Yea, I am sorry man, ... I wasn't even going to write ~~me~~^{you} up the tray just Fell on the floor, you shouldn't even be up here." (see claim 22)

B.26) On E-Tier in cell -13 on 10/5/2021 10:20 am DON Shane brought the morning med pass. There is no consistency in administration of medication. The prescribed ongoing treatment for epilepsy control is to be taken in 12 hour increments. The Northampton County Prison inmate handbook states 6:00am and 8:00pm as the medication times. Even in the Medical Segregation Unit I wasn't getting my medications at proscribed times and it was causing headaches and the fear they would progress into seizures. This was the basis of my grievance in medical. (see claim 11)

IV. Statement of Claim

B. 27) On E-Tier in Cell 13 E-Tier on 10/8/2021 at 5:00 pm Corrections Officer Cleffi badge # 406 and Officer J. Davis informed me that while their class was going through training they used the Lieutenant's Bodycam footage of me getting tased in a seizure on 12/5/2020 as a training video.

B. 28) On E-Tier in cell 13 on 10/9/2021 at 2:30pm I wrote a letter to Deputy Warden Mark T. Bartholomew about my lack of medical care in the current housing unit (see attached) even though medical care is left to Primecare Medical Inc. I still am not receiving proper care. I have grieved to all levels of administration this problem and it is ignored.

B. 29) On E-Tier in cell 13 on 10/9/2021 at 4:30pm I wrote another letter to Primecare Medical Inc. Corporate Office, now my 3rd time writing their Corporate Office since being put on E-Tier on 6/24/2021 about my lack of medical care and the letters have all went unanswered with no change to the actions of the medical staff. Since 3/1/2021 I have written to that office 7 times to put them on notice. Also they have received MD's orders that are to be documented with Corporate (see claim 21) (see attached)

B. 30) On E-Tier in cell 13 on 10/9/2021 at 4:30 pm my evening medications medication was distributed by Primecare LPN Nicki no where near the 12 hour prescribed increment of continued treatment as pursuant to MD's order. Also no where near Northampton County Prison inmate handbook time 8:00pm evening medication. I asked "Nicki" for a Primecare Medical grievance for the incident on 9/22/2021 that Jenn Keller said she will talk to them about. LPN Nicki said no and asked witness Corrections Officer Brewer badge 494 "can he prove it?" she laughed and walked away.

IV. Statement of Claim

B.31) On E-Tier in cell 13 between 7/13/2021 - 7/22/2021 Corrections Officer Byrd badge # 414 stated "we are on lock down, no DS showers or rec.". I spent 9 days on "lock down" with no showers or recreation. 24/7 in the cell and Officer Byrd stated "per administration."

B.32) On E-Tier cell 13 morning of 10/11/2021 10:00 am. I missed my "life sustaining Medications" for my epilepsy because, Walker badge # 273 didn't "go out of his way" to get me up. Walker stated "That isn't my job." I immediately wrote to Doc Administrator James C. Hostura to inform him of the events taking place. (see attached)

B.33) On E-Tier in cell 13 morning of 10/11/2021 10:45 am Corrections Officer Heatherman called medical because, I asked if my medications I missed can be brought at afternoon medications and LPN Kerstyn stated "He doesn't get afternoon medications." Officer Heatherman informed me of LPN Kerstyn's comment. I never received my morning dose of "Life sustaining medications"

B.34) On E-Tier in cell 13 10/14/2021 12:30 pm Corrections Officer Marshall witness to Director of Nursing Shane P. Coffery coming to E-Tier to give me distilled water. Shane state "How much water can you possibly need?" after filling 5 styrofoam cups and I stated "I sleep 16 hours a day, 2 shower shirts and per the MD I MUST wear the CPAP any time I sleep Sir." I followed by asking Shane if he got the grievance I wrote on the date of 10/11/2021 at 11:00 am about the incident of 9/22/2021 when no one came to see me after a seizure and that morning of 10/11/21 when LPN Kerstyn denied me of my "Life sustaining medication" by stating "He doesn't get afternoon meds" to Officer Heatherman. Shane said he will sign it and get it back to me. I never saw it again.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

See attached

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See attached

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

mental Anguish,
jaw pain, head trauma, lacerations, bruising, severe chest pain,
Severe chest pain and bleeding, throat burning, Left sided sciatic
pain at my tail bone, severe head aches, physical therapy I never received

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

\$1,200.00 actual damages for the breaking of my personal property
medical machine CPAP.

\$500,000,000.00 punitive damages for 'inadequate medical care,
Failure to rectify Constitutional violations, Violation of Due Process
of Law, retaliation, Deliberate Indifference

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Northampton County Prison

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

All Claims

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Northampton County Prison

2. What did you claim in your grievance?

The actions of Corrections Officers use of Maliciousness

3. What was the result, if any?

grievance was denied as ungrievable

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I appealed to the highest ability available to me and wrote a hand written letter to the Deputy Warden Mark T. Bartholomew when grievance was denied.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

The grievance process set forth for inmates use in this county detainment facility was barred from use by every grievance denied.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

10/17/2021

Signature of Plaintiff

August B. Kreis IV

Printed Name of Plaintiff

August B. Kreis IV

Prison Identification #

5264

Prison Address

666 Walnut StreetEaston

City

PA

State

18042

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

(i) **Permitted disclosures.** A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

Page |
13

• (A) The provision of health care to such individuals;

• (B) The health and safety of such individual or other inmates;

• (C) The health and safety of the officers or employees of or others at the correctional institution;

• (D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;

• (E) Law enforcement on the premises of the correctional institution; or

• (F) The administration and maintenance of the safety, security, and good order of the correctional institution.

(ii) **Permitted uses.** A covered entity that is a correctional institution may use protected health information of individuals who are inmates for any purpose for which such protected health information may be disclosed.

(iii) **No application after release.** For the purposes of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

(6) Covered entities that are government programs providing public benefits.

(i) A health plan that is a government program providing public benefits may disclose protected health information relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation.

(ii) A covered entity that is a government agency administering a government program providing public benefits may disclose protected health information relating to the program to another covered entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of protected health information is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.

(7) **National Instant Criminal Background Check System.** A covered entity may use or disclose protected health information for purposes of reporting to the National Instant Criminal Background Check System the identity of an individual who is prohibited from possessing a firearm under 18 U.S.C. 922(g)(4), provided the covered entity:

(i) is a State agency or other entity that is, or contains an entity that is:

(A) An entity designated by the State to report, or which collects information for purposes of reporting, on behalf of the State, to the National Instant Criminal Background Check System; or

(B) A court, board, commission, or other lawful authority that makes the commitment or adjudication that causes an individual to become subject to 18 U.S.C. 922(g)(4); and

(ii) Discloses the information only to:

(A) The National Instant Criminal Background Check System; or

(B) An entity designated by the State to report, or which collects information for purposes of reporting, on behalf of the State, to the National Instant Criminal Background Check System; and

(iii)

(A) Discloses only the limited demographic and certain other information needed for purposes of reporting to the National Instant Criminal Background Check System; and

(B) Does not disclose diagnostic or clinical information for such purposes.

(i) **Standard: Disclosures for workers' compensation.** A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

[65 FR 82802, Dec. 28, 2000, as amended at 67 FR 53270, Aug. 14, 2002; 78 FR 5699, Jan. 25, 2013; 78 FR 34266, June 7, 2013; 81 FR 395, Jan. 6, 2016]

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10/10/2021 Civil Action No. 21-cv-2366 / August 15, 2021

§ 164.520 Notice of privacy practices for protected health information.

(a) Standard: Notice of privacy practices -

(1) Right to notice. Except as provided by paragraph (a)(2) or (3) of this section, an individual has a right to adequate notice of the uses and disclosures of protected health information that may be made by the covered entity, and of the individual's rights and the covered entity's legal duties with respect to protected health information.

(2) Exception for group health plans.

- (i)** An individual enrolled in a group health plan has a right to notice:
 - (A)** From the group health plan, if, and to the extent that, such an individual does not receive health benefits under the group health plan through an insurance contract with a health insurance issuer or HMO; or
 - (B)** From the health insurance issuer or HMO with respect to the group health plan through which such individuals receive their health benefits under the group health plan.
- (ii)** A group health plan that provides health benefits solely through an insurance contract with a health insurance issuer or HMO, and that creates or receives protected health information in addition to summary health information as defined in § 164.504(a) or information on whether the individual is participating in the group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan, must:

- (A)** Maintain a notice under this section; and
- (B)** Provide such notice upon request to any person. The provisions of paragraph (c)(1) of this section do not apply to such group health plan.
- (iii)** A group health plan that provides health benefits solely through an insurance contract with a health insurance issuer or HMO, and does not create or receive protected health information other than summary health information as defined in § 164.504(a) or information on whether an individual is participating in the group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan, is not required to maintain or provide a notice under this section.

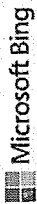
(3) Exception for inmates. An inmate does not have a right to notice under this section, and the requirements of this section do not apply to a correctional institution that is a covered entity.

§ 164.524 Access of individuals to protected health information.

(a) Standard: Access to protected health information -

(1) Right of access. Except as otherwise provided in paragraph (a)(2) or (a)(3) of this section, an individual has a right of access to inspect and obtain a copy of protected health information about the individual in a designated record set, for as long as the protected health information is maintained in the designated record set, except for:

- (i)** Psychotherapy notes; and
- (ii)** Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
- (2) Unreviewable grounds for denial.** A covered entity may deny an individual access without providing the individual an opportunity for review, in the following circumstances.
 - (i)** The protected health information is excepted from the right of access by paragraph (a)(1) of this section.
 - (ii)** A covered entity that is a correctional institution or a covered health care provider acting under the direction of the correctional institution may deny, in whole or in part, an inmate's request to obtain a copy of protected health information, if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or responsible for the transporting of the inmate.



cognitive awareness

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What is **Cognitive Awareness** 1. It refers to the ability of the Web agents to diagnose their processing limitations and to establish interactions with the external environment (in the form of other agents including humans and software agents). Learn more in: **Enabling Distributed Cognitive Collaborations on the Semantic Web**

What is Cognitive Awareness | IGI Global

www.igi-global.com/dictionary/enabling-distributed-cognitive-collaborations-se...

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PEOPLE ALSO ASK

What is the meaning of cognitive awareness? >

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The lowest level of cognitive awareness is preverbal construing - which is developed before the onset of language and is definitely "unconscious". Then there is submergence - in which one pole of a personal construct is not available, and suspension - in which one or more of the elements making up a construct have been "dropped out" when a new construct is formed; he relates this to forgetting and repression.

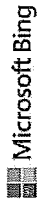
Personal Construct Theory · Fundamental Postulate

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Definition of **Cognitive Awareness**: It refers to the ability of the Web agents to diagnose their processing

10/16/2021 Carl Atton No. 21-CV-2368 August B. Kuriw



vagus nerve stimulator



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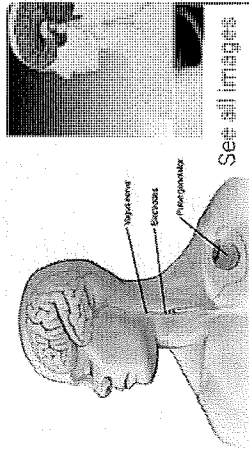
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Vagus nerve stimulation

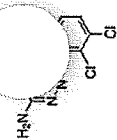
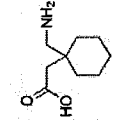
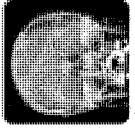
CPT code Procedure Side effects

Vagus nerve stimulation is a medical treatment that involves delivering electrical impulses to the vagus nerve. It is used as an add-on treatment for certain types of intractable epilepsy and treatment-resistant depression. Frequent side effects include coughing and shortness of breath. Serious side effects may include trouble talking and cardiac arrest.



May treat: Epilepsy

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Vagus nerve stimulator for migraine

The stimulus from the vagus nerve enters the brain stem and translates into pain relief for migraines. The inspiration for using vagus nerve stimulation for migraines comes from the success of implanted devices to control epilepsy or

Vagus nerve stimulation or vagal nerve stimulation (VNS) is a medical treatment that involves delivering electrical impulses to the vagus nerve. It is used as an adjunctive treatment for certain types of intractable epilepsy and treatment-resistant depression.

ANSWER FROM 5 SOURCES

10/10/2021 Civil Action No. 21-CV-2364 August B. Weiss v

Sir you are a Navy Seal, the hell you went through to earn that trident, the lazy individuals that work in this detainment facility would not last a day. I don't know how many men you had to honor their passing but, when someone loses a life it is not fun. When someone hangs it up within these walls a "Code blue" medical emergency is called and CERT response with ALL available officers. If oxygen is cut off to the brain for too long.... you're dead. I suffer from an illness that will result in just the same. There is an extension cord going into my cell for a CPAP because, my oxygen saturation going to my brain drops below 90% for 20% of sleep. It just might be my last breathe. Then I ~~also~~ have a very objectively serious severe epilepsy condition in where to this date I still have a magnet bracelet that is a complete weapon but, cleared as a medical necessity. It is stated on the OMC that on 6/24/2021 as pursuant to Administration I was removed from medical observation. The grievance I placed about not receiving "Life Sustaining medication" because, the COs will not go out of their way. As they put it "It is not their job". John Harman stated, "it is my responsibility to be on the gate at medication distribution." For one, there is no medication distribution times. It sways from 8am-10am and 4:30pm-8:00pm, so how do I know to be ready? The stupidest thing your contracted medical care company could have done is clear me of medical observation and John Harman confirmed they did. On 9/22/2021 I had a seizure, ~~both~~ officers, Cleffi badge 486 and Brewer badge 494 called medical twice, No one Ever Came. In this situation ~~I am~~ ~~the~~ ~~the~~ ~~the~~ Contracted medical care

company

wholly inadequate medical care, I just missed medications again because, officer Walker badge # 273 said "That isn't my job"

Respectfully,
August B. Krum

CC.

10/15/2021 Civil Action No. 21-cv-2360 Cell H-05

Double Bunk

Desk

August
B. Weiss

Michael
Garcia

Window

Double Bunk

Bochini

Toilet

Gate

Entrance

H-Tier "Special Needs" Northampton County Prison

1
ORIGINAL

1 COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY
2 COMMONWEALTH OF PENNSYLVANIA
3 CRIMINAL DIVISION

4 COMMONWEALTH OF PENNSYLVANIA :OTN: R130459-0
5 VS. :
6 AUGUST BYRON KREIS, IV :
7 Defendant :

8 PRELIMINARY HEARING

9
10 BEFORE MAGISTERIAL DISTRICT JUDGE
11 DANIEL G. CORPORA, 700 Philadelphia Road,
12 Suite C, Easton, Northampton County,
13 Pennsylvania, on Monday, June 7, 2021,
14 commencing at 9:30 a.m.

15
16 APPEARANCES:

17 AARON GALLOGLY, ESQUIRE
18 Assistant District Attorney
19 669 Washington Street
20 Easton, Pennsylvania 18042
21 -- For the Commonwealth

22 JORDAN KNISLEY, ESQUIRE
23 Office of the Public Defender
24 669 Washington Street
25 Easton, Pennsylvania 18042
-- For the Defendant

AUGUST BYRON KREIS
-- Pros Se

COURT REPORTER: JEAN E. GENOVA

I N D E X

WITNESSES

<u>FOR THE COMMONWEALTH:</u>	<u>PAGE</u>
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Cross Examination by Defendant Kreis	15
AUGUST BYRON KREIS, IV	
Direct Examination	30
Cross-Examination by Mr. Gallogly	33

1 (Due to the COVID-19 pandemic and
2 the voluntary mask wearing by some participants
3 in the hearing, the foregoing is being
4 transcribed to the best of this reporter's
5 ability.)

6 THE JUDGE: Good morning. We are
7 officially here for a preliminary hearing,
8 Commonwealth of Pennsylvania versus August Byron
9 Kreis, IV.

10 Am I saying that correctly, sir,
11 Kreis?

12 DEFENDANT KREIS: Kreis.

13 THE JUDGE: Kreis, I apologize.

14 Mr. Kreis, it's my understanding at
15 this time that you're going to be waiving a
16 right to have counsel represent you?

17 DEFENDANT KREIS: Yes, sir.

18 THE JUDGE: You applied for a
19 Public Defender and were assigned a Public
20 Defender, and you want to represent yourself
21 this morning; is that correct?

22 DEFENDANT KREIS: Yes.

23 THE JUDGE: That being said, I'm
24 going to ask you if you are knowingly,
25 voluntarily and intelligently waiving your right

1 to have an attorney representing you for these
2 proceedings?

3 DEFENDANT KREIS: Yes.

4 THE JUDGE: I'm going to have you
5 sign the Waiver of Counsel form. There are four
6 copies to sign before we begin. And one of
7 those copies will be your copy to keep, sir.

8 (The Defendant signs the forms.)

9 THE JUDGE: With that being said,
10 we are ready to proceed.

11 On the Complaint there are three
12 charges listed. The first charge listed is
13 aggravated assault, under 2702 subsection
14 (a)(3). This is listed as a felony charge of
15 the second degree.

16 I'm sorry there are four charges
17 listed.

18 The second charge, disarming law
19 enforcement officer, as a felony of the third
20 degree, under Section 5104.1 subsection (a)(1).

21 Third charge, institutional
22 vandalism, as a misdemeanor charge of the second
23 degree, under Section 3307 subsection (a)(3).

24 And a final charge, criminal
25 mischief, as a misdemeanor charge of the second

1 degree, under Section 3304 subsection (a)(5).

2 Is the State ready to proceed at
3 this time?

4 MR. GALLOGLY: We are, Your Honor.

5 THE JUDGE: Call your first
6 witness.

7 MR. GALLOGLY: At this time,
8 Commonwealth would call Michael Gazzano.

9 MS. KNISLEY: Can I be excused,
10 Judge?

11 THE JUDGE: Yes.

12 MS. KNISLEY: Thank you, Your
13 Honor, have a good day.

14 THE JUDGE: Raise your right hand,
15 sir.

16 * * *

17 MICHAEL GAZZANO, having been duly
18 sworn, was examined and testified as follows:

19 THE JUDGE: Thank you.

20 * * *

21 DIRECT EXAMINATION

22 BY MR. GALLOGLY:

23 Q Can you state your name, spelling
24 your last name for the record?

25 A Michael Gazzano, G-A-Z-Z-A-N-O.

1 Q And who are you employed by?

2 A Northampton County Prison.

3 Q And what is your position there?

4 A Correctional officer.

5 Q And on April 12th, 2021, were you
6 operating in your capacity as corrections
7 officer?

8 A Yeah.

9 Q And how were you dressed at that
10 time?

11 A I'm in the same uniform I am today
12 with my black shirt on and black pants.

13 Q All right.

14 And during that day, did you go to
15 a prison cell that had an inmate of August
16 Kreis?

17 A Yes.

18 Q And is he here in the courtroom
19 today?

20 A Yes, he is.

21 Q Can you just point him out,
22 describe an article of clothing?

23 A He's in our orange jumper.

24 MR. GALLOGLY: Your Honor, if the
25 record could show the witness identified the

1 defendant.

2 THE JUDGE: Noted.

3 BY MR. GALLOGLY:

4 Q And what was your reason for being
5 in that cell on that day?

6 A To conduct a cell search, at the
7 request of medical.

8 Q And what were you specifically
9 looking for at that time?

10 A At the point of the cell search, I
11 was looking for a jug of water.

12 Q And why was that?

13 A Mr. Kreis has a CPAP machine and it
14 has to be filled with water. When I went to
15 fill it, medical didn't know where the jug was.

16 Q And so while you were -- so what
17 happened when you went in, first went inside?

18 A well we actually, at first we took
19 the CPAP machine down, got it filled with water,
20 and came back. And at that point I asked him,
21 Inmate Kreis, if he has a water jug in his cell.
22 He stated, no. I said, I'm going to have to
23 look around the cell just to see if you have it.

24 At that point, I opened the cell
25 door, he went to the left-hand side of the cell

1 by the toilet. And at that point, I entered
2 into the cell.

3 while I was looking, I went
4 straight back to the back of the cell to work my
5 way forward real quick. It was a quick look
6 around at the cell. I noticed that he had
7 headphones conducive of using with a radio.

8 At that point, I asked him if he
9 had a radio. The reason I asked him, was
10 because he was on discipline segregation. County
11 -- DOC policy is that anybody on discipline
12 segregation is not allowed to have a radio.

13 At that point, Inmate Kreis stated
14 that, you should have talked to your partners,
15 they gave it to me. I said, that's neither here
16 nor there. Do you have a radio? He stated, no.

17 So he was still by the left-hand
18 side of the cell by the toilet and near the
19 bunk, about ten, five or ten feet approximately
20 away from the toilet. He was standing in
21 between there.

22 As I went to the front of the cell,
23 there's a desk on the right-hand side. The desk
24 consists of four drawers -- or four doors that
25 open. There's two on the left side, two on the

1 right side, and they swing outward.

2 I went and opened up the one on the
3 right side. And when I went to put -- when I
4 put my hands in it, Inmate Kreis kicked the door
5 shut, closing my hands and slamming the door.

6 At that point, I immediately stood
7 up and I, I gave him a little bit of a push to
8 create distance, because he was hostile and
9 aggravated at that point. And then I started to
10 give him commands to place his hands behind his
11 back, which he refused.

12 At this point, another officer came
13 in. I had control of his right arm at this
14 point. He backed up against the wall of the
15 cell, between the toilet and the bunk again.
16 And then refused to give up his arms, or
17 resisting commands to give up his arms.

18 It actually ended up him sitting on
19 the toilet itself, as we were trying to
20 transition him to the floor. As we were going
21 to the floor, I had my holster with my X26P
22 Taser on. It got dislodged in his left hand.
23 He grabbed it around the trigger of the Taser.

24 So when we do transition to the
25 floor, I noticed that he had it in his left

1 hand. I pinned his left hand out of his body,
2 so now he's between the desk and the bunk, and
3 his head's in the corner kind of. The bunk's
4 here (indicating), the desk's here (indicating),
5 he's diagonal. My partner's working on his
6 right hand at the time, to try to get it behind
7 his back. And my -- I had his left hand pinned
8 out with the Taser. He had a grip on it, his
9 fingers were inside the trigger guard.

10 At that point, I give him a diffuse
11 pressure strike to the shoulder, to try to work
12 his hands off, all while giving commands to
13 release the Taser.

14 I was able to manipulate his hands
15 off the Taser. At that point Inmate Kreis, once
16 I regained control of the Taser, Inmate Kreis
17 grabbed the bunk itself, the ladder of the bunk.
18 Well not the ladder, but the legs of the bunk,
19 and wrapped his left arm around the bunk.

20 At that point, I went to actually
21 utilize my Taser. I gave commands for him to
22 stop resisting or he's going to be tased. I
23 said, Taser, Taser. I went to deploy, the Taser
24 was inoperable. The trigger of the Taser
25 actually fell off between my partner's legs. So

1 I re-holstered, and started working on his arms
2 again.

3 At that point, he had a good grip
4 around the leg. My Lieutenant at this point
5 came in, Lieutenant Rinker, and drive stunned
6 him with his Taser. And at that point he was
7 able to -- I was able to get his arm off of the
8 bunk and into handcuffs.

9 At that point then, we flipped him
10 onto recovery position. I searched him on the
11 right side, searched him on the left side. My
12 Lieutenant gave me orders to continue the search
13 of the cell, and I found a radio underneath his
14 bunk.

15 At that point then, I exited the
16 cell and the incident was over for me.

17 Q All right.

18 And what were -- what, what hand
19 was in the door before he kicked it?

20 A The right hand.

21 Q The right hand.

22 And what was the condition of the
23 hand afterwards?

24 A It was just red. It was just red
25 and sore. It went away after about a day.

1 Q All right.

2 But there was redness afterwards?

3 A Correct.

4 Q And how long would you say he had,
5 the defendant had the Taser in his possession?

6 A Um ... you know, the length of down
7 time kind of lasts longer, so it could have been
8 a minute, minute or so before I was able to
9 manipulate his fingers off of the Taser.

10 Q And you gave him commands to drop
11 the Taser?

12 A Correct.

13 Q And did he refuse to drop the
14 Taser?

15 A Correct.

16 Q What kind of Taser do you have?

17 A It's the X26P.

18 Q And do you provide it or is the --
19 does the jail provide it?

20 A The jail provides it.

21 Q All right.

22 And do you know how much that's
23 worth?

24 A Approximately around \$1500, a
25 little bit more.

1 Q Okay.

2 And was it damaged prior to you --
3 do you know if it was damaged prior to it
4 falling out?

5 A It was not before it. We did it --
6 it was spark tested to make sure it's in working
7 order.

8 Q Do you know how it, how it ended up
9 being broken?

10 A When he -- when his fingers were
11 actually on the Taser, his fingers were inside
12 of the trigger guard. So when I was
13 manipulating them off, it ended up pulling the
14 trigger itself off of the Taser.

15 Q And it was unable to be used
16 afterwards?

17 A Correct. I went to deploy it and
18 it was inoperable.

19 Q I am showing what I have marked
20 Commonwealth Exhibit Number 1.

21 MR. GALLOGLY: May I approach, Your
22 Honor?

23 THE JUDGE: Yes.

24 BY MR. GALLOGLY:

25 Q Do you recognize this photograph?

1 A That is the Taser I had on me that
2 day.

3 Q And can you just describe what that
4 photograph is showing?

5 A It's showing that the trigger is
6 actually off of the Taser itself. So in the, in
7 the trigger guard there should -- this black
8 piece (indicating) should be right there to
9 engage the mechanism in the Taser. And it came
10 off while we were wrestling for it.

11 Q And that photograph's an accurate
12 representation of the Taser after this event?

13 A Yes.

14 Q Thank you.

15 MR. GALLOGLY: Your Honor, I'll
16 move for admission of Commonwealth's Exhibit 1.

17 THE JUDGE: Any objection?

18 DEFENDANT KREIS: (Nodded
19 negatively.)

20 THE JUDGE: Thank you.

21 MR. GALLOGLY: Thank you, no
22 further questions.

23 THE JUDGE: Any cross examination,
24 sir, of this witness?

25 DEFENDANT KREIS: Yes. I was just

1 going to ask you, Your Honor, it's your
2 courtroom, I was going to ask you if you wanted
3 me to read the whole citation number, just the
4 one law that I wanted to read before.

5 THE JUDGE: This is just cross
6 examination at this point of this witness.

7 DEFENDANT KREIS: Okay, all right.

8 THE JUDGE: Do you have any
9 questions of this witness?

10 DEFENDANT KREIS: I understand
11 completely.

12 * * *

13 CROSS-EXAMINATION

14 BY DEFENDANT KREIS:

15 Q So you already confirmed, you know,
16 about the CPAP machine. You, you already
17 confirmed that you know exactly what that -- you
18 know what it was for, is what I'm saying, Mr.
19 Gazzano; right? That you went down to take care
20 of this with medical, and they sent you back up
21 to search? You understand that one?

22 A Correct.

23 Q Okay.

24 Now have you ever seen this
25 (indicating) before?

1 A I have not.

2 Q You've never seen this
3 (indicating)?

4 A No.

5 Q You've never seen it being cleared
6 on DS status that I am allowed to have something
7 of this nature in -- excuse me -- in my cell?

8 A I've never seen you wear that, sir.

9 Q You've never seen that before?

10 A No.

11 Q Okay, all right, that's -- yes,
12 sir.

13 Um ... and I wanted to let you know
14 that every question that I ask to anybody who I
15 call as a witness, that it's either yes, no, or
16 I don't know. Those are the only three answers
17 that you can give.

18 MR. GALLOGLY: Just ask a question.

19 DEFENDANT KREIS: And that's
20 perfectly fine. I was just stating, that's all.
21 BY DEFENDANT KREIS:

22 Q So, is it fact that you stayed
23 strict to codified administrative protocol
24 during your shift of duty?

25 A Yes.

1 Q Yes?

2 A Yes.

3 Q Okay, you're just -- that's all,
4 that is all.

5 Is it fact when you were arm
6 barring me ninety degrees to the left and my
7 head was 12:00 o'clock to the unit cell desk,
8 that you slammed it into the desk?

9 A No.

10 Q Okay.

11 That the corrections officer does
12 not have -- is it fact that the corrections
13 officer does not have to tell the inmate why or
14 for what the acts of a CR are being -- CO are
15 being made, but communication to an inmate
16 greatly reduces the possibility of escalation of
17 the situation?

18 A Could you repeat that question?

19 Q All right, if you'd like me to,
20 sir.

21 I said, is it a fact that a
22 corrections officer does not have to tell the
23 inmate why or for what the actions of the
24 corrections officer are being made, but
25 communication does greatly reduce the

1 possibility of escalation of the situation?

2 Yes, no, I don't know?

3 A Your first part is, yes. The
4 second part of the question is objective.

5 Q For the de-escalation or the amount
6 of escalation of a situation, is that what
7 you're referring to?

8 A That's exactly --

9 THE COURT REPORTER: Wait, that's
10 exactly?

11 THE WITNESS: Objective,
12 situation-by-situation.

13 DEFENDANT KREIS: Okay, so he means
14 situation-to-situation, everything is different,
15 ma'am. That's what he's stating.

16 BY DEFENDANT KREIS;

17 Q Is it fact that the corrections
18 officer only needs to establish themselves in
19 the way of initial presence?

20 A Yes.

21 Q Okay.

22 Is it fact that you are not
23 certified and able to conduct investigations nor
24 enforce the law of this Commonwealth?

25 MR. GALLOGLY: Objection to the

1 relevance of the question.

2 DEFENDANT KREIS: They're all
3 leading into each other, Your Honor.

4 THE JUDGE: I'll sustain that
5 objection. You can ask other questions and see
6 where they go, but that question's not relevant
7 to what we're here for today.

8 DEFENDANT KREIS: I understand,
9 Your Honor.

10 BY DEFENDANT KREIS:

11 Q Is it a fact that in your own words
12 in the formal misconduct of 4/12/2021, at 710
13 hours, that I grabbed control of the Taser after
14 it became dislodged off the holster, as you were
15 using excessive force to restrain me?

16 MR. GALLOGLY: I'm going to object
17 to that question. It describes it as excessive
18 force. It's a legal conclusion there.

19 THE JUDGE: I'm going to sustain
20 the objection of the question as it's asked.

21 BY DEFENDANT KREIS:

22 Q Is it fact, Mr. Gazzano, that I
23 allegedly slammed the left cabinet door on the
24 right side of the cabinet, quote, intentionally
25 or knowingly, end quote, while your attention

1 and flashlight were in the right cabinet, and
2 which caused immediate pain?

3 A Yes. My flashlight wasn't there,
4 though. It was my hand.

5 Q Okay.

6 Mr. Gazzano, is it fact that this
7 caused the use of your fingers resulting in you
8 standing, turning ninety degrees to your left,
9 and slamming me in the chest with both hands,
10 causing me to stumble backwards and hit my head
11 on the outer corner of the bunk, and you
12 striking recent nerve surgery, which there is,
13 you know, there it is (indicating), for my
14 epilepsy, that's what that's for. That is for
15 the implant, sir. While stating, quote, mother
16 fucker, end quotes.

17 DEFENDANT KREIS: I apologize for
18 swearing in your courtroom, Your Honor.

19 THE JUDGE: That's fine.

20 THE WITNESS: No, you didn't fall
21 back and strike your head. I pushed you to
22 create distance, since you were --

23 BY DEFENDANT KREIS:

24 Q And you never stated that?

25 A Never stated that?

1 Q You never stated, you never stated
2 mother fucker, as you were doing that?

3 A I did not.

4 Q You did not?

5 A I did not, no.

6 Q Okay.

7 Mr. Gazzano, is it fact that as of
8 April 12th of 2020, that my disabilities were
9 aware to everyone within the, within the
10 Corrections Department, and that you acted in,
11 quote, deliberate indifference by your actions?

12 MR. GALLOGLY: Object to that, to
13 the entirety of the question. You can ask if it
14 was known about his medical condition, but I
15 don't know where this deliberate indifference is
16 coming from.

17 THE JUDGE: Again, you can re-ask
18 that question. I'm going to sustain the
19 objection. There are parts of it that are
20 probably answerable, parts that probably aren't.
21 BY DEFENDANT KREIS:

22 Q Is it fact, Mr. Gazzano, that by
23 your actions, you were acting in deliberate
24 indifference to my life?

25 MR. GALLOGLY: I'm going to object

1 to that, because that's the part of the question
2 that was objectionable.

3 THE JUDGE: That part of the
4 question I'm going to sustain the objection.

5 DEFENDANT KREIS: Okay. How could
6 I re-word that.

7 BY DEFENDANT KREIS:

8 Q Mr. Gazzano, is it just by the fact
9 of the way you conducted yourself that it was in
10 excessive manner, that it was not needed, per
11 the situation?

12 MR. GALLOGLY: I'm going to object
13 to that as well. I mean, it's still asking for
14 the same thing.

15 THE JUDGE: I'll sustain the
16 objection.

17 DEFENDANT KREIS: Yeah, I'll move
18 on, Your Honor.

19 BY DEFENDANT KREIS:

20 Q And every one of these questions,
21 as noted, is because of the medical groundings
22 of everything, because of my medical
23 disabilities.

24 THE COURT REPORTER: The medical
25 what of everything?

1 DEFENDANT KREIS: The medical
2 adequacy of the situation and how it was
3 handled.

4 THE JUDGE: Mr. Kreis, this is a
5 preliminary hearing to determine whether or not
6 a crime was committed. Not for some of what
7 you're getting into in some of the questions.

8 DEFENDANT KREIS: So you're just
9 sustain -- you're sustaining?

10 THE JUDGE: When I hear the term --

11 DEFENDANT KREIS: It's not a trial.

12 THE JUDGE: Exactly.

13 DEFENDANT KREIS: It's a hearing.

14 THE JUDGE: Exactly.

15 DEFENDANT KREIS: Okay, Your Honor,
16 okay.

17 BY DEFENDANT KREIS:

18 Q Now, Mr. Gazzano, is it fact that
19 when you were restraining me, when you were
20 restraining me, and you moved positions, like
21 you said, you did get my right hand into a
22 handcuff, you did. And when you were moving
23 positions to gain control and restrain my left
24 hand, that the Taser became dislodged and fell
25 to the floor?

1 A No, negative. That's not the way
2 it happened.

3 Q That's not the way it happened,
4 sir?

5 A No.

6 Q Okay, okay.

7 So, Mr. Gazzano, why in your
8 write-up, the misformal -- you know, the actual
9 write-up you gave me for the situation -- I
10 apologize, Your Honor -- why is it fact that the
11 wording in the misconduct does not add up to the
12 -- I'm not Latin, Your Honor, I am not an
13 attorney, I apologize if I pronounce anything
14 wrong.

15 THE JUDGE: That's okay.

16 BY DEFENDANT KREIS:

17 Q why is it the fact that the
18 information on the misconduct does not add up to
19 Mr. Horvath's information with the four corners
20 of that Affidavit?

21 A I haven't personally seen the
22 Affidavit.

23 Q Because I do have, I do have both,
24 and --

25 DEFENDANT KREIS: May I present

1 that to you, Your Honor?

2 THE JUDGE: What are you presenting
3 to me?

4 DEFENDANT KREIS: The wording in
5 how it actually happened and what he even stated
6 himself, compared to what was stated in the
7 Statute I wrote.

8 THE JUDGE: Now what is it? What
9 is it; a document?

10 DEFENDANT KREIS: It's a document,
11 it's a document. I apologize, Your Honor.

12 THE JUDGE: Please allow the
13 District Attorney to view it first, before I
14 take a look at it.

15 DEFENDANT KREIS: Give it to the?

16 THE JUDGE: (Nodded affirmatively.)

17 DEFENDANT KREIS: Okay.

18 That is his formal misconduct, the
19 write-up of it.

20 (The document is review by the
21 District Attorney and the Judge.)

22 THE JUDGE: Do you want to read
23 this, sir? Do you have questions regarding this
24 document now, sir?

25

1 BY DEFENDANT KREIS:

2 Q So my only question to you, Mr.
3 Gazzano, is, if I grabbed it from you when I
4 wasn't already on the floor, why doesn't it
5 state it in any way, shape, or form related to
6 that in your own words?

7 A It says, Inmate Kreis then gained
8 control of the officer's duty weapon after it
9 became dislodged from the holster and refused to
10 let it go.

11 Q Ah-ha. After it became dislodged.

12 A Correct.

13 Q Okay?

14 A Okay.

15 Q Now, everything that you had stated
16 before about how me going back to the wall and
17 never getting arm barred down to the floor
18 directly, that's not even true.

19 MR. GALLOGLY: I'm going to object.
20 That's an argumentative question.

21 THE JUDGE: Sustained.

22 BY DEFENDANT KREIS:

23 Q And you, you agree that, what is
24 it, Lieutenant Rinker, badge 36, he was the
25 officer who came, the commanding officer who

1 came to the situation?

2 A Yes.

3 Q Okay.

4 Now on his video, on his body cam,
5 it will show it did drive tas me once, directly
6 in my back, whatever, middle of my back, and
7 that is when I released the Taser. You never
8 regained controlled of that Taser until after he
9 tased me, and that should all be on body-cam
10 footage.

11 A That's false.

12 Q Okay.

13 So that is false, he will not have
14 that on body-cam footage?

15 A When Lieutenant Rinker entered the
16 cell, I already had my Taser, I already had the
17 Taser re-holstered. You had your left arm
18 around the bunk. The reason you got drive
19 stunned is because you wouldn't let go of the,
20 of the leg of the, of the bunk.

21 So the reason that we had -- the
22 reason that Lieutenant Rinker had to drive stun
23 you is because you were refusing orders to place
24 your hands behind your back.

25 Q Well, the only reason I'm asking

1 you the question about how it's worded in that
2 misconduct, Mr. Gazzano, is because, Mr.
3 Gazzano, it says in here of the information in
4 which -- how I broke a Statute, the official
5 Statute being indicted against me, it says that
6 I removed or attempted to remove a weapon off of
7 a corrections officer. That my actions are that
8 I pulled it off of our duty belt.

9 A Correct.

10 Q But that is not what comes from --
11 comes forth from that misconduct. It doesn't
12 say I grabbed it off of your duty belt, sir.

13 A I'm not sure how to answer that
14 with a yes or no.

15 Q So I did, so I did not grab it from
16 your duty belt?

17 A You did.

18 Q I did grab it from your duty belt?

19 A When it became dislodged, correct.

20 DEFENDANT KREIS: Okay, all right,
21 that's enough of that, Your Honor.

22 THE JUDGE: Thank you. No further
23 questions?

24 DEFENDANT KREIS: He answered it,
25 that's fine.

1 THE JUDGE: Any redirect?

2 MR. GALLOGLY: No redirect, Your

3 Honor.

4 THE JUDGE: Thank you, sir, you may
5 step down.

6 Any other testimony from the State
7 at this time?

8 MR. GALLOGLY: No additional
9 testimony. The Commonwealth would rest.

10 THE JUDGE: Thank you.

11 At this time, sir, you are able to
12 provide testimony on your own behalf. You do
13 not need to do so at the preliminary hearing.
14 Any testimony you do provide, could later be
15 used against you at a court, at a subsequent
16 hearing.

17 That being said, do you wish to
18 offer any testimony today?

19 DEFENDANT KREIS: Yes, I would. I
20 have no reason to ...

21 THE JUDGE: As best you can, I'll
22 ask you to please raise your right hand.

23 * * *

24

25

1 AUGUST BYRON KREIS, IV, having
2 been duly sworn, was examined and testified as
3 follows:

4 THE JUDGE: Thank you.
5 what would you like to tell the
6 Court?

7 * * *

8 DIRECT EXAMINATION

9 DEFENDANT KREIS: That it was
10 roughly 6:10 in the morning when I did, I had
11 asked him to get the water. And they went down
12 and medical, which shouldn't even be something
13 he should have to worry about, medical couldn't
14 find that jug. And that's -- they did direct
15 him to come back and come into the cell and
16 search for it.

17 And while he was searching for it,
18 I asked him multiple times what was going on,
19 because I was on -- I was already on
20 disciplinary segregation, and I didn't
21 understand why they were entering the cell. And
22 he was acting in an aggressive manner.

23 And normally an inmate on DS, I
24 should have, I should, on my status, been on
25 E-Tier in the hole. And any time there's a

1 search in a cell, you get re -- you get
2 handcuffed and same thing as this (indicating),
3 in a belt, Your Honor, and removed from the cell
4 and everything. And I was just confused as to
5 what was going on, and why he was agitated.

6 And I did not find out about that
7 jug of water until after it was all over. Until
8 it was completely over. And I had asked him
9 many times. If Mr. Bochini was here, I would
10 cross examine and ask him, well is that not true
11 to the best of your knowledge that I asked over,
12 and over, and over again why this was happening,
13 because I was just confused.

14 And he had opened the both drawers
15 on the left side of the desk. I had closed them
16 with my foot. And then when he was in the last
17 one closest to the gate; so what is that? The
18 right side, the right side cabinet, Your Honor,
19 of the right side of the desk. And he had
20 already been in the left one. I closed that
21 with my foot, I did not slam it shut.

22 And he immediately stood, turned
23 ninety degrees to his left and, you know, facing
24 me then at his 12:00, and he slammed me
25 backwards in the chest, slamming on this

1 (indicating) implant for my severe epilepsy,
2 which caused substantial pain. And my head hit
3 the corner of the bunk.

4 And as far as taking an aggressive
5 stance? It was more defensive, because I was
6 just stunned what he just did. And he was
7 making the action to slam me backwards in the
8 chest with so much force -- I'm sorry, Your
9 Honor, these things (indicating) are annoying.
10 -- that's when he stated, quote, mother fucker.

11 And by the time the code was
12 called, I was already on the ground and cuffed
13 on my right hand. Nobody helped him take me to
14 the -- he had to do that on his own, because a
15 shadowing officer cannot get involved. And
16 Bochini was his shadowing officer that day.

17 And I did not let go of that Taser
18 until way after when he is, when he is putting
19 his testimony in about.

20 THE JUDGE: Anything further?

21 DEFENDANT KREIS: No. Just when he
22 was, just when he was taking me down and hitting
23 the desk, and hitting the corner of that bunk,
24 that just put me in fear of my life, of my
25 disabilities. Because it does only take one

1 seizure to die.

2 THE JUDGE: Thank you, sir.

3 Any cross examination?

4 * * *

5 CROSS-EXAMINATION

6 BY MR. GALLOGLY:

7 Q So you admit to kicking the door
8 with your foot?

9 A I pushed it closed with my foot.

10 Q But you used your foot to shut the
11 door?

12 A Yes, I did.

13 Q All right.

14 And you held onto the Taser?

15 A Yes.

16 Q And did you hear commands to
17 release the Taser?

18 A Yes, I did.

19 Q And you did not release the Taser?

20 A No, I didn't. And the Taser is
21 broken on my, on my actions.

22 MR. GALLOGLY: Thank you, no
23 further questions.

24 THE JUDGE: Anything in closing,
25 any closing argument, sir?

1 DEFENDANT KREIS: I actually did
2 write something up that was a closing argument,
3 but I don't -- it's your courtroom, Your Honor.
4 If I'm allowed to read this?

5 THE JUDGE: It's closing argument,
6 you have an opportunity to present it.

7 DEFENDANT KREIS: It's your
8 courtroom, Your Honor. So I'll let you --
9 whatever you command to do.

10 It says, you see, comes down to one
11 major problem within the NCP facilities.
12 Standard trained procedure, which has been
13 codified by administration for the use of
14 discretion in handling similar situations and
15 equal protections for facility's staff, because
16 we can't have people hurting you guys, or for
17 hurting me. And I'm a pretrial detainee. I
18 haven't even been convicted to the fullest
19 extent of due process of law.

20 So we're not -- that's why we can't
21 be beating on each other. And I was in fear for
22 my life because of the actions which were made.
23 It just -- you're not to go slamming your head
24 off things when you have epilepsy, Your Honor.
25 That is what I mean.

1 That you cannot have security
2 entity correctional staff follow or break
3 procedure when they feel like following it or
4 not, and expect the outcome of equal treatment
5 of similar instances. Like you said, everything
6 is a -- it's all circumstantial.

7 And the remove of inmates of a
8 housing unit is not mandatory. But in the
9 situation that I said, everything changes, Your
10 Honor, from person-to-person and shift-to-shift
11 on their discretion of how they want to exercise
12 power changes. And that's one reason that the
13 confusion on my end came up very easy, because
14 it was just way different. It was totally
15 different. And that's why I was asking what was
16 going on.

17 But second shift does that at their
18 discretion, to avoid incidents like the one at
19 hand. Substance in regarding in the inmates and
20 corrections staff are not off video camera
21 recording together, resulting in the ability
22 resulting -- excuse me -- in the ability for
23 conflict of parties or accusations.

24 As a result, you get told to exit
25 willingly or willingly restrained on DS. If you

1 refuse to do so, the CO calls the Lieutenant on,
2 on shift, like you would normally, calls the
3 Lieutenant on shift, and they do not enter the
4 cell to handle the situation and/or incident
5 without everything being video and audio
6 recorded by the Lieutenant's body cam.

7 So in this result, no one goes off
8 of video recording until the Lieutenant is there
9 and present.

10 Everything by an inmate or staff is
11 undeniably on recording. And the corrections
12 officers are trained on the use of discretion
13 and the use of authority over life of that
14 discretion.

15 The way the individuals of second
16 shift use discretion in doing there duty, is
17 understandable and very professional. And you
18 cannot, you can't expect privacy in a jail
19 facility. There is no such thing. Shakedowns
20 can be done whenever they want, if they want, if
21 they don't want to. It's just the environment
22 of an authoritative environment as a jail. So
23 it has nothing to do with that. Nothing.

24 My only argument is on the way
25 things were handled and the way things were

1 done, Your Honor.

2 THE JUDGE: Thank you.

3 Any closing, sir?

4 MR. GALLOGLY: Yes, just briefly.

5 Just going through the charges,
6 2702(a)(3), aggravated assault, attempts or
7 causes or intentionally or knowingly causes
8 bodily injury to any officers, agents, employees
9 or other persons enumerated in Subsection (c),
10 in the performance of duty.

11 Subsection (c)(9) includes officers
12 or employee of a correctional institution,
13 county jail or prison.

14 I believe the testimony here, that
15 the corrections officer had his hand inside of
16 the door, and the defendant did use his foot to
17 shut it, or kick it, or any manner which causes
18 redness and therefore injury.

19 Going to 5104.1, disarming law
20 enforcement officer, (a)(1), without lawful
21 authorization, removes or attempts to remove a
22 firearm, rifle, shotgun or weapon from a person
23 of a law enforcement officer or corrections
24 officer, or deprives a law enforcement officer
25 or corrections officer of the use of a firearm,

1 rifle, shotgun or weapon, when the officer's
2 acting within the scope of the officer's duties
3 and has reasonable cause to know or knows that
4 the individual is a law enforcement officer,
5 corrections officer.

6 I believe even the defendant's own
7 statement is that when he was given commands to
8 drop the Taser he did not. He deprived the
9 officer of that, even in his own version, the
10 defendant's own version of events. He was
11 already known to be a corrections officer. He
12 was operating in his capacity as a corrections
13 officer. And was dressed as such.

14 And then for institutional
15 vandalism, and criminal mischief, I won't read
16 those statutes, but the defendant admitted to
17 breaking the Taser, which was valued at \$1500.

18 Therefore I believe prima facie has
19 been met and I would request that these charges
20 be held for court.

21 THE JUDGE: Thank you.

22 At this time, based on the
23 parameters of a preliminary hearing, I will be
24 holding all charges over for court at the County
25 level.

1 That being said, your next hearing
2 will be your formal arraignment. It is
3 pre-scheduled for September 16th, 2021. It will
4 be at held at 9:00 o'clock a.m., more likely on
5 video arraignment over at County Court.

6 Before you leave here today I will
7 give you written notice of a date and time of
8 that hearing. The notice you receive today will
9 be the only notice you will receive.

10 That being said, we are concluded
11 here this morning.

12 * * *

13 (Proceedings concluded.)
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2
3 CERTIFICATION4 I HEREBY CERTIFY that the proceedings
5 are contained fully and accurately in the notes
6 taken by me in the above cause, and that this is
7 a correct transcript of the same.8 Date: June 18, 2021
910
11 A handwritten signature in black ink, appearing to read "Jean E. Genova". The signature is fluid and cursive, with the first name "Jean" and last name "Genova" clearly distinguishable.12 JEAN E. GENOVA
13 Court Reporter
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My DS time for the incident of 4/12/2021 ended on 9/17/2021, then because of Corrections Officer Douglas badge 476 abusing the behavioral System I ended up receiving another 45 days consecutive for an empty food tray falling off the wicket on 8/24/2021 by John Harmon. On 9/22/2021 I had a seizure and both officers working the tier, Officers Brewer 494 and Officer Cleffi 406 called medical multiple times. No one from medical ever even came to see me. The misconduct of 8/24/2021 was investigated by John Kleinman and the appeal was denied as a result of the Lts Office confirmed the tray was thrown. I spoke with Officer Joshua A. Plum badge 274 on 9/27/2021 at 1:48am and he confirmed that the tray was not thrown from the cell

1/19/2021

Civil Action No. 21-cv-2360

by stating "I know it was an accident and fell. It hit my leg at my boot. I wasn't even going to even write you up for that. I only did it because, Officer Douglas told the Lts Office it was and he wrote that misconduct for me to sign to cover my ass". As a direct result I have spent more time on DS on E-Tier with inadequate medical care. Obviously Plum is going to tell the Lts Office I did it on purpose after writing and signing an unnecessary misconduct that was to cover his ass. I get close to no medical care on E-Tier.

Respectfully
August B. Kreis

I am writing you do to the lack of adequate medical care in Northampton County Prison and the actions of the Primicare employees in this facility. On 9/22/2021 I had a seizure and NO ONE From medical ever even came to see me or check my vitals. I have been ignored by Primicare staff in this facility since out of abuse of Power and deliberate Indifference, Physicians Assistant Polina and Medical Administrator Jenn Keller "cleared me" of "Medical Observation" despite the knowledge of me having severe OSA with use of a CPAP and severe epilepsy with VNS implant Therapy. Allowing me to be placed completely unmonitored against St. Lukes MD's order, on E-Tier "The Hole". DS classification changes priviledges not medical needs. DON Shane P. Caffery Failed to reorder my "Life sustaining medications" on 7/24-7/27, 2021 and it caused two siezures. Primicare employee LPN "Nicki" just distributed evening medication and I asked for a grievance, about the above stated incodents and she refused it, stated "Can he prove it?" laughed and walked away. Denying me the grievance.

Respectfully,
August B.
Davis IV

CC.

August B. Kreis IV

Respectfully,
August B. Kreis IV

COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY**DOCKET**

Docket Number: CP-48-CR-0001466-2021

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

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August Byron Kreis IV

BAIL INFORMATION

Kreis, August Byron IV

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	04/22/2021	Monetary		\$10,000.00		

CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
1	1	F2	18 § 2702 §§ A3	Aggravated Assault - Attempts to cause or causes BI to designated individuals	04/12/2021	R 130459-0
2	2	F3	18 § 5104.1 §§ A1	Disarming Law Enforcement Officer - Without Lawful Authorization	04/12/2021	R 130459-0
3	3	M2	18 § 3307 §§ A3	Institut'I Vand'ism Educ Facil	04/12/2021	R 130459-0
4	4	M2	18 § 3304 §§ A5	Criminal Mischief - Damage Property	04/12/2021	R 130459-0

DISPOSITION SENTENCING/PENALTIESDisposition

<u>Case Event</u>	<u>Disposition Date</u>	<u>Final Disposition</u>
<u>Sequence/Description</u>	<u>Offense Disposition</u>	<u>Grade</u> <u>Section</u>
<u>Sentencing Judge</u>	<u>Sentence Date</u>	<u>Credit For Time Served</u>
<u>Sentence/Diversion Program Type</u>	<u>Incarceration/Diversionary Period</u>	<u>Start Date</u>
<u>Sentence Conditions</u>		

Held for Court (Lower Court)

Defendant Was Present

Lower Court Disposition	06/07/2021	Not Final
1 / Aggravated Assault - Attempts to cause or causes BI to designated individuals	Held for Court (Lower Court)	F2 18 § 2702 §§ A3
2 / Disarming Law Enforcement Officer - Without Lawful Authorization	Held for Court (Lower Court)	F3 18 § 5104.1 §§ A1
3 / Institut'I Vand'ism Educ Facil	Held for Court (Lower Court)	M2 18 § 3307 §§ A3
4 / Criminal Mischief - Damage Property	Held for Court (Lower Court)	M2 18 § 3304 §§ A5

Proceed to Court

Defendant Was Not Present

Information Filed	09/14/2021	Not Final
1 / Aggravated Assault - Attempts to cause or causes BI to designated individuals	Proceed to Court	F2 18 § 2702 §§ A3
2 / Disarming Law Enforcement Officer - Without Lawful Authorization	Proceed to Court	F3 18 § 5104.1 §§ A1
3 / Institut'I Vand'ism Educ Facil	Proceed to Court	M2 18 § 3307 §§ A3
4 / Criminal Mischief - Damage Property	Proceed to Court	M2 18 § 3304 §§ A5

COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY**DOCKET****Docket Number: CP-48-CR-0001466-2021****CRIMINAL DOCKET****Court Case**

Commonwealth of Pennsylvania

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v.

August Byron Kreis IV

COMMONWEALTH INFORMATION

Name: Aaron Matthew Gallogly
Assistant District Attorney

Supreme Court No: 318976

Phone Number(s):
610-829-6628 (Phone)

Address:
Northampton County Da's Office
669 Washington St
Easton, PA 18042

ATTORNEY INFORMATION

Name: Jordan Amanda Knisley
Public Defender

Supreme Court No: 320571

Rep. Status: Active

Phone Number(s):
610-759-7600 (Phone)

Address:
8 N Main St
Nazareth, PA 18064

Representing: Kreis, August Byron IV

ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
1	04/22/2021		Corpora, Daniel G.
Bail Set - Kreis, August Byron IV			
1	05/14/2021		Knisley, Jordan Amanda
Entry of Appearance			
1	06/09/2021		Court of Common Pleas - Northampton County
Original Papers Received from Lower Court			
1	06/17/2021		Kreis, August Byron IV
Pro Se Correspondence			
Kreis, August Byron IV			
06/17/2021	Interoffice		
1	06/23/2021		Kreis, August Byron IV
Pro Se Correspondence			
Kreis, August Byron IV			
06/24/2021	Interoffice		
2	06/23/2021		Kreis, August Byron IV
Pro Se Correspondence			
Kreis, August Byron IV			
06/24/2021	Interoffice		
1	07/06/2021		Kreis, August Byron IV
Pro Se Correspondence			

COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY**DOCKET****Docket Number: CP-48-CR-0001466-2021****CRIMINAL DOCKET****Court Case**

Commonwealth of Pennsylvania

v.

August Byron Kreis IV

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ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
<u>Service To</u>		<u>Service By</u>	
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
Kreis, August Byron IV 07/07/2021	Interoffice		
1 Pro Se Correspondence Kreis, August Byron IV 07/21/2021	Interoffice	07/21/2021	Kreis, August Byron IV
1 Pro Se Correspondence Kreis, August Byron IV 08/05/2021	Interoffice	08/04/2021	Kreis, August Byron IV
1 Pro Se Correspondence Kreis, August Byron IV 08/24/2021	Interoffice	08/24/2021	Kreis, August Byron IV
1 Criminal Court Scheduled 11/30/2021 9:00AM		09/02/2021	Northampton County Clerk of Courts
1 Pro Se Correspondence Kreis, August Byron IV 09/13/2021	Interoffice	09/08/2021	Kreis, August Byron IV
1 Information Filed		09/14/2021	Commonwealth of Pennsylvania
1 Arraigned		09/16/2021	Court of Common Pleas - Northampton County
2 Pre-Trial Conference Scheduled 10/27/2021 9:00AM		09/16/2021	Northampton County Clerk of Courts
1 Pro Se Correspondence		09/28/2021	Kreis, August Byron IV

CPCMS 9082

Printed: 09/29/2021

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COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY**DOCKET****Docket Number: CP-48-CR-0001466-2021****CRIMINAL DOCKET****Court Case**

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v.

August Byron Kreis IV

ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
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CASE FINANCIAL INFORMATION

Last Payment Date:

Total of Last Payment:

Kreis, August Byron IV Defendant	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary</u> <u>Payments</u>	<u>Total</u>
Costs/Fees					
Miscellaneous Issuance County (Northampton)	\$19.00	\$0.00	\$0.00	\$0.00	\$19.00
Server Fee - Referred to County	\$58.50	\$0.00	\$0.00	\$0.00	\$58.50
Server Fee - Referred to County	\$64.10	\$0.00	\$0.00	\$0.00	\$64.10
Costs/Fees Totals:	\$141.60	\$0.00	\$0.00	\$0.00	\$141.60
Grand Totals:	\$141.60	\$0.00	\$0.00	\$0.00	\$141.60

** - Indicates assessment is subrogated

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1. ✓

As Pursuant to the Freedom of Information Act and 902(a) of the Right to Know Law, I Respectfully Request an updated Docket for the Following Docket Numbers: 783-2021, 784 2021 and, 1466-2021. Thank you.

2021 SEP 28 P 1:37
CLERK OF COURT
CRIMINAL DIVISION
NORTHAMPTON COUNTY, PA

Respectfully,
August B. Kreis IV

10/7/2021 21-CV-2360 August B. Kerner

August Kerner

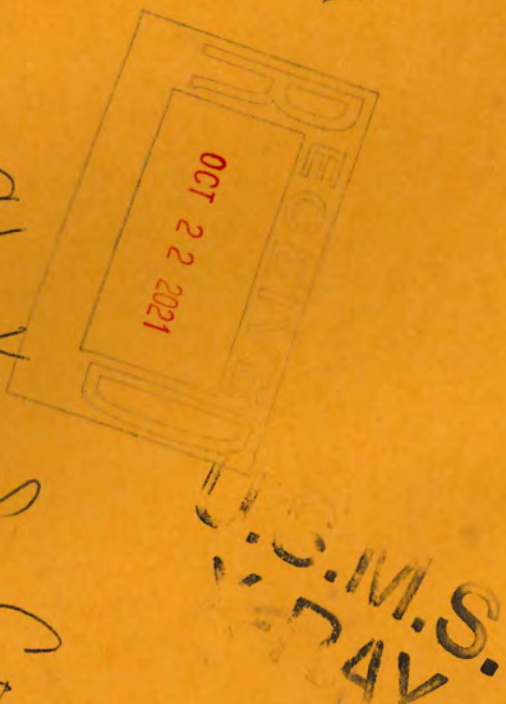
#0005264

E13

August B. Kreis IV
Inmate # 5264
Northampton County
Northampton County Jail
666 Walnut Street
Easton, PA 18842



Legal Mail



Clerk of Court, EDPa
James A. Byrne U.S. Courthouse
Room 2609
601 Market Street
Philadelphia, PA 19106

INMATE MAIL
This correspondence is from a
County Jail and the sender
is an inmate. The contents have not
been evaluated. Northampton County
Jail is not responsible for the
contents or debts incurred.